COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

CIVIL MISC. WRIT PETITION NO. 2855 OF 2001 (S/S)
(Old No. 30337 /93)

U.P. State Road Transport Corporation,
Through Regional Manager, Dehradun
…….. Petitioner

Versus

1. U.P. Public Services Tribunal No.5, Lucknow
2. Dhoom Singh S/o Pat Ram,
R/o Village Kabirpur, P.O. Niyamatpur,
Near Muzaffarabad District Saharanpur
……. Respondents

Shri A.N. Sharma, learned counsel for the petitioner.
Shri Nandan Arya, learned counsel for the respondents.

Dated: June 16, 2005

Coram: Hon. P.C. Verma, J.
Hon. P.C. Pant, J.

By means of this writ petition, moved under Article 226 of Constitution of India, Uttar Pradesh State Road Transport Corporation has challenged the judgment and order dated 29.03.1993 passed by Uttar Pradesh Public Services Tribunal No.5 in claim petition No. 364/P/V/1984 whereby the claim petition of the Respondent No.2 has been allowed declaring the order of punishment illegal and directing him to be reinstated with all consequential benefits.

The brief facts of the case are that Respondent No.2-Dhoom Singh was appointed as

Conductor with Uttar Pradesh State Roadways w.e.f. 23.04.1963. Later, vide notification dated 05.07.1972, the staff of Uttar Pradesh Government Roadways was sent on deputation with Uttar Pradesh State Roadways Corporation. The Respondent No.2 was served with a charge sheet dated 15.03.1982 and another charge sheet dated 23.04.1982 regarding the alleged misconduct committed by him. After the Departmental Enquiry, the Respondent No. 2 was removed from service vide order dated 20.09.1982. Aggrieved by which, he filed the claim petition before the Uttar Pradesh Public Services Tribunal.

The Tribunal vide the impugned order allowed the petition of respondent No.2. Hence, this writ petition was filed before Allahabad High Court in the year 1993 from where it has been received by transfer to this Court under Uttar Pradesh Re-Organization Act, 2000.

We have heard learned counsel for the parties and perused the record.

The learned counsel for the petitioner admitted that Respondent No. 2 was reinstated in the service in pursuance to the impugned order. Learned counsel for the Respondent No.2

submitted that Respondent No.2 has already retired from the service.

Learned counsel for both the parties during arguments agreed upon and conceded that the writ petition may be dismissed except for the back wages. It is settled principle of law that the employee is not entitled for back wages as of right for the period he has done no work.

In view of facts and circumstances and nature of the case, we dispose of the writ petition with the direction that the impugned order is upheld except to the extent that the Respondent No.2 shall not be entitled for back wages from the date of removal i.e. 20.09.1982 till the date of re-instatement 29.03.1993.

The Respondent No.2-Dhoom Singh shall not be entitled to back wages for the said period. The writ petition is disposed of accordingly.

(P.C. Pant,J.) **(P.C.Verma,J.)**

R.Dang